

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ASA T. CARTER,

Plaintiff,

vs.

OFFICER BAKEWELL, et al.,

Defendants.

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4:05CV3158

MEMORANDUM AND ORDER

This matter is before the court on the Statement of Appeal (filing no. 6) filed by the plaintiff, Asa T. Carter. See generally 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). The plaintiff appeals the Prisoner Payment Order (filing no. 5) in which Magistrate Judge F.A. Gossett provisionally granted the plaintiff's motion to proceed in forma pauperis, subject to payment of the \$17.41 initial partial filing fee. The plaintiff states that because he is in protective custody at the Lincoln Correctional Center and does not have a prison job, he cannot pay the \$17.41 initial partial filing fee as ordered by the court. The plaintiff asks the court to recalculate the amount of his initial partial filing fee.

In support of his motion, the plaintiff has submitted a current inmate trust account statement. After review of the plaintiff's updated trust account statement, the court finds, on the basis of the plaintiff's average trust account deposits of \$10.00 per month during the relevant period, that the appropriate initial partial filing fee is \$2.00 instead of \$17.41.

Therefore, filing no. 6, the plaintiff's Appeal from filing no. 5, the Prisoner Payment Order, is granted, and the Prisoner Payment Order is amended as follows: By **September 1, 2005**, the plaintiff's institution shall collect from the plaintiff's trust account and remit to the court an initial partial filing fee of **\$ 2.00**.

SO ORDERED.

DATED this 2nd day of August, 2005.

BY THE COURT:

s/Laurie Smith Camp
Laurie Smith Camp
United States District Judge